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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/202,758	12/21/1998	GARY ANTHONY JUBB	M8540/185343	3326

7590 10/22/2002
JOHN S PRATT
KILPATRICK & STOCKTON
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309-4530

EXAMINER

GROUP, KARL E

ART UNIT	PAPER NUMBER
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1755

20

DATE MAILED: 10/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.
09/202,758

Applicant(s)
Jubb et al

Examiner
Karl Group

Art Unit
1755



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED _____ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on Oct 15, 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attachment.

3. ☐ Applicant's reply has overcome the following rejection(s): _____
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: none
- Claim(s) objected to: none
- Claim(s) rejected: 8-15
- Claim(s) withdrawn from consideration: _____
8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

KARL GROUP
PRIMARY EXAMINER
ART UNIT 1755

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1. An appeal under 37 CFR 1.191 was filed in this application on 10-15-02. Appellant's brief is due on 12-15-02 in accordance with 37 CFR 1.192(a).

2. The amendment filed 10-15-02 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance and will not be entered because:

There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.

The proposed amendment raises new issues that would require further consideration and/or search.

The proposed amendment is not deemed to place the application in better form for appeal by materially simplifying the issues for appeal.

3. Applicants should note:

a. Requiring one of the boron oxide or phosphorous oxide in claim 14 is a new issue.

b. The limitation "adding" in claim 8 is a new issue. Also since the proportions of both the boron and phosphorous oxides may still be zero the claims is considered contradicting.

c. Claims 10-12 are outside the scope of claim 8 since the boron and phosphorous oxides are still optional.

d. All prior art rejections are maintained for reasons set forth in the final office action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl Group whose telephone number is (703)308-3821. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached on (703)308-3823. The fax phone number for this Group is (703)872-9310, for any non-final amendment or communication, and (703)872-9311 for any after-final amendment or communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)308-0661.

A handwritten signature in black ink, appearing to read 'Karl Group', is positioned above the printed name.

**KARL GROUP
PRIMARY EXAMINER
ART UNIT 1755**

Keg
October 21, 2002